



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

AUG 31 2011

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Tom McGlade  
President and Chief Executive Officer  
Rubschlager Baking Corporation  
3220 West Grand Avenue  
Chicago, Illinois 60651

Re: Rubschlager Baking Corporation - Chicago, Illinois  
Administrative Consent Order EPA-5-11-113(a)-IL-12

Dear Mr. McGlade:

Enclosed is an executed original of the Administrative Consent Order regarding the  
above captioned case. If you have any questions about the Order, please contact me at  
312-886-6812.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Brent Marable".

Brent Marable  
Chief  
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure:

cc: Ray Pilapil, Manager  
Bureau of Air - Compliance and Enforcement Section  
Illinois Environmental Protection Agency

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>In the Matter of:</b>	)	<b>Docket No. EPA-5-11-113(a) IL-12</b>
	)	
<b>Rubschlager Baking Corporation</b>	)	<b>Proceeding Under Section 113(a)(1)</b>
<b>Chicago, Illinois</b>	)	<b>of the Clean Air Act,</b>
	)	<b>42 U.S.C. § 7413(a)(1)</b>
	)	
_____	)	

**Administrative Consent Order**

1. The Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, is issuing this Order to Rubschlager Baking Corporation (Rubschlager) under Section 113(a)(1) of the Clean Air Act (Act), 42 U.S.C. § 7413(a)(1).

**Statutory and Regulatory Background**

2. Each state must submit to the Administrator of U.S. EPA a plan for attaining and maintaining the National Ambient Air Quality Standards under Section 110 of the Act, 42 U.S.C. § 7410.

3. On May 31, 1972, U.S. EPA approved the Illinois Pollution Control Board (IPCB) Rule 101<sup>1</sup> [35 IAC § 201.102] as part of the federally enforceable State Implementation Plan (SIP) for Illinois. 37 Fed. Reg. 10842 (May 31, 1972).

4. On May 31, 1972, U.S. EPA approved IPCB Rule 103(a)(1) and (b)(1) [35 IAC § 201.142-143] as part of the federally enforceable Illinois SIP. 37 Fed. Reg. 10842 (May 31, 1972).

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<sup>1</sup> The relevant U.S. EPA-approved Illinois SIP provisions were codified and renumbered as follows: Rule 101 is found at 35 Illinois Administrative Code (IAC) § 201.102; Rule 103(a)(1) is found at 35 IAC § 201.142; and Rule 103(b)(1) is found at 35 IAC § 201.143. The current IAC citations hereinafter appear in brackets following each reference to the Illinois SIP in this Order.

5. IPCB Rule 103(a)(1) [35 IAC § 201.142] states that no person shall cause or allow the construction of any new emission source or any new air pollution control equipment, or cause or allow the modification of any existing emission source or air pollution control equipment without first obtaining a construction permit from the Illinois Environmental Protection Agency (IEPA), and lists exceptions not relevant here.

6. IPCB Rule 103(b)(1) [35 IAC § 201.143] states that no person shall cause or allow the operation of any new emission source or new air pollution control equipment, for which a construction permit is required, without first obtaining an operating permit from IEPA.

7. IPCB Rule 101 [35 IAC § 201.102] defines "air contaminant" as any solid, liquid or gaseous matter, any odor or any form of energy, that is capable of being released into the atmosphere from an emission source.

8. IPCB Rule 101 [35 IAC § 201.102] defines "emission source" as any equipment or facility of a type capable of emitting specified air contaminants to the atmosphere.

9. IPCB Rule 101 [35 IAC § 201.102] defines "new emission source" as any emission source that commences construction or modification on or after April 14, 1972.

10. IPCB Rule 101 [35 IAC § 201.102] defines "construction" as commencement of on-site fabrication, erection or installation of an emission source or of air pollution control equipment.

11. IPCB Rule 101 [35 IAC § 201.102] defines "modification" as any physical change in, or change in the method of operations of, an emission source or of air pollution control equipment which increases the amount of any specified air contaminant emitted by such source or equipment or which results in the emission of any specified air contaminant not previously

emitted. It shall be presumed that an increase in the use of raw materials, the time of operation or the rate of production will change the amount of any specified air contaminant emitted.

12. Pursuant to IPCB Rule 101 [IAC § 201.102], modified emission sources are considered “new emission sources.”

13. Under Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), the Administrator of U.S. EPA may issue an order requiring compliance to any person who has violated or is violating a SIP. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

### **Findings**

14. Rubschlager owns and operates a bakery located at 3220 West Grand Avenue and 3052 West Chicago Avenue, in Chicago, Illinois (“facility”).

15. At the facility, Rubschlager operates three bread manufacturing lines, which consist of the following: a line that manufactures cocktail bread (cocktail bread line), a line that manufactures square and rye-ola bread (square and rye-ola bread line), and a line that manufactures rolls and sandwich bread (roll bread line).

16. Before 1990, Rubschlager operated two bread manufacturing lines at the facility, the cocktail bread line and the square and rye-ola bread line. Before 1990, sandwich bread was produced on the cocktail bread line. Following installation of the roll bread line, sandwich bread production moved to that line.

17. Rubschlager’s facility consists of the following: raw material storage silos equipped with a pneumatic conveyance system, dough mixers, dough proofing equipment, ovens, coolers, freezers, bread slicing units and packaging areas.

18. Rubschlager's facility emits volatile organic materials (VOM), including ethanol, into the atmosphere during the bread manufacturing process.

19. VOM, including ethanol, are air contaminants, as defined in IPCB Rule 101 [35 IAC § 201.102].

20. Rubschlager's facility is an emission source, as defined in IPCB Rule 101 [35 IAC § 201.102].

21. In 1990, Rubschlager installed a roll bread line at the facility. This included the installation of the following: a dough divider for the new line; an approximately 100-ft long Baker Perkins tunnel oven; and a proof box and connecting conveyors.

22. The roll bread line emits VOM, including ethanol, into the atmosphere.

23. By installing a roll bread line at the facility, Rubschlager increased the emission of VOM, including ethanol, into the atmosphere.

24. Because Rubschlager installed the roll bread line, which increased the emission of VOM, including ethanol, into the atmosphere, Rubschlager made modifications to the facility, as defined in IPCB Rule 101 [35 IAC § 201.102].

25. Since at least 1990, Rubschlager's facility is a new emission source.

26. Rubschlager made modifications to the facility without first obtaining a construction permit from IEPA in violation of IPCB Rule 103(a)(1) [35 IAC § 201.142] and Section 110 of the CAA, 42 U.S.C. § 7410.

27. Since at least 1990, Rubschlager has operated a new emission source, for which a construction permit is required, without obtaining an operating permit for the facility from IEPA,

in violation of IPCB Rule 103(b)(1) [35 IAC § 201.143] and Section 110 of the CAA, 42 U.S.C. § 7410.

28. On January 14, 2011, EPA issued a Notice of Violation to Rubschlager for violations of the Illinois SIP regulations IPCB Rule 103(a)(1) [35 IAC § 201.142] and IPCB Rule 103(b)(1) [35 IAC § 201.143] since at least 1990.

29. On February 15, 2011, EPA and Rubschlager held a conference to discuss the January 14, 2011 Notice of Violation.

#### **Compliance Program**

30. Within one year of the effective date of this Order, Rubschlager must submit an operating permit application to the Illinois Environmental Protection Agency (IEPA) for the facility that covers all operations, including all production lines, at both the 3220 West Grand Avenue and 3052 West Chicago Avenue locations.

31. Within 30 days of submitting a permit application to IEPA, Rubschlager must provide a copy of the application to U.S. EPA.

32. Rubschlager shall follow the terms of the submitted operating permit application for the facility's operations while awaiting formal action on the permit application from IEPA, subject to any modifications or changes to the permit application required by IEPA.

33. Rubschlager shall comply with the construction permit requirements of IPCB Rule 103(a)(1) [35 IAC § 201.142] and the operating permit requirements of IPCB Rule 103(b)(1) [35 IAC § 201.143] regarding any future modifications, including but not limited to the installation of equipment, at the facility.

34. On June 23, 2011, Rubschlager submitted an operating permit application to IEPA dated June 8, 2011 pursuant to paragraph 30, above. A copy of this application was submitted to U.S. EPA on July 7, 2011 pursuant to paragraph 31, above.

35. Rubschlager must send all reports and other documents required by this Order to:

Attention: Compliance Tracker (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

### **General Provisions**

36. This Order does not affect Rubschlager's responsibility to comply with other federal, state, and local laws.

37. This Order does not restrict U.S. EPA's authority to enforce the Illinois SIP, or any other section of the Act.

38. Nothing in this Order limits the U.S. EPA's authority to seek appropriate relief, including penalties, under Section 113 of the Act, 42 U.S.C. § 7413, for Rubschlager's violations of the SIP.

39. Failure to comply with this Order may subject Rubschlager to penalties of up to \$37,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.

40. The terms of this Order are binding on Rubschlager, its assignees and successors. To the extent that Rubschlager transfers its interest in the facility prior to issuance of the operating permit, Rubschlager must give notice of this Order to any successors in interest prior to transferring ownership and must simultaneously verify to U.S. EPA, at the above address, that it

has given the notice. Following approval of the operating permit from IEPA for the facility, Rubschlager is not required to provide this Order to any successor in interest.

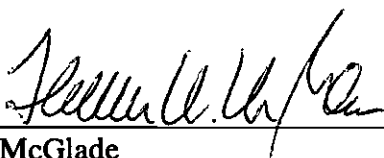
41. U.S. EPA may use any information submitted under this Order in an administrative, civil, judicial, or criminal action.

42. Rubschlager does not admit the alleged violations and does not agree with the legal conclusions of the Findings set forth in this Order.

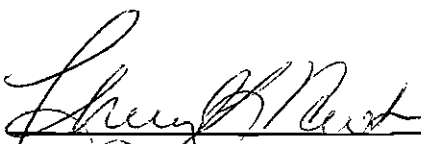
43. Rubschlager agrees to the terms of the Compliance Program set forth in this Order.

44. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will terminate one year from the effective date, provided that Rubschlager has complied with all terms of the Order throughout its duration.

8/19/2011  
Date

  
Tom McGlade  
President & CEO  
Rubschlager Baking Corporation

8/31/11  
Date

  
Cheryl L. Newton  
Director  
Air and Radiation Division



**CERTIFICATE OF MAILING**

I, Betty Williams, certify that I sent the Administrative Consent Order, U.S. EPA Order  
No. EPA-5-11-113(a) IL-12, by Certified Mail, Return Receipt Requested, to:

Tom McGlade, President & CEO  
Rubschlager Baking Corporation  
3220 West Grand Avenue  
Chicago, Illinois 60651

I also certify that I sent a copy of the Administrative Consent Order, U.S. EPA Order  
No. EPA-5-11-113(a) IL-12, by First Class Mail to:

Ray Pilapil, Manager  
Bureau of Air  
Compliance and Enforcement Section  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, Illinois 62702

on the \_\_\_\_ day of \_\_\_\_\_ 2011.

\_\_\_\_\_  
Betty Williams  
Administrative Program Assistant  
Planning and Administration Section

CERTIFIED MAIL RECEIPT NUMBER: \_\_\_\_\_

## CERTIFICATE OF MAILING

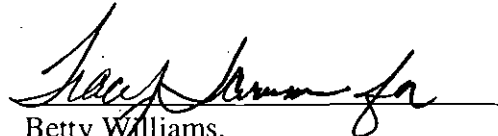
I, Betty Williams, certify that I sent the executed Administrative Consent Order,  
EPA Order No. EPA-5-11-113(a)-IL-12, by Certified Mail, Return Receipt Requested, to:

Tom McGlade  
President and Chief Executive Officer  
Rubschlager Baking Corporation  
3220 West Grand Avenue  
Chicago, Illinois 60651

I also certify that I sent a copy of the executed Administrative Consent Order, EPA Order  
No. EPA-5-11-113(a)-IL-12, by First Class Mail to:

Ray Pilapil, Manager  
Bureau of Air-Compliance and Enforcement Section  
Illinois Environmental Protection Agency  
Springfield, Illinois

on the 1 day of September 2011.

  
Betty Williams,  
Administrative Program Assistant  
Planning and Administration Section

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7670 4694